> wide-area fiver optic network, as disclosed by Sistanizadeh in order to efficiently provide redundancy in a network comprising optic rings.

Office Action at pp. 4-5. In essence, the Examiner argues that because certain switches (*i.e.*, Blackdiamond, Alpine, and Summit families of Gigabit Ethernet switches) are disclosed as used by Sistanizadeh in a regional area network, the references can be combined under Section 103.

But it does not follow that the combination of references teaches the use of the claimed invention. On the contrary, Sistanizadeh is precisely the prior art that the present invention overcomes: regional fiber ring networks without a failover transition system of the type claimed. Essentially the Examiner uses the benefit of hindsight to improve upon the system disclosed in Sistanizadeh, despite ESUG being admittedly limited to the LAN environment.

The Examiner essentially argues that the optical area network disclosed in the pending application is an obvious extension of Extremeware. In fact, it is the innovative topology described which enables the use of the claimed process. As explained in the specification:

> Layer 2, known as the bridging or switching layer, allows edge IP equipment addressing and attachment. It forwards packets based on the unique Media Access Control ("MAC") address of each end station. Data packets consist of both infrastructure content, such as MAC addresses and other information, and end-user content. At Layer 2, generally no modification is required to packet infrastructure content when going between like Layer 1 interfaces, like Ethernet to Fast Ethernet. However, minor changes to infrastructure content-not end-user data content-may occur when bridging between unlike types such as FOOl and Ethernet. Additionally, the Ethernet service can inter-connect customers to create an "extended" LAN service.
>
> Layer 3, known as the routing layer, provides logical partitioning of subnetworks, scalability, security, and Quality of Service ("QoS"). Therefore, it is desirable that the network remain transparent to Layer 3 protocols such as lP. **This is accomplished by the combination of a particular network topology combined with failure detection/recovery mechanisms, as more fully described herein.**

Specification at pp. 1, 2. The amendments to the claims clarify this relationship, which is not obvious in view of the cited references.

Indeed, a review of Sistanizadeh reveals that the elements of Sistanizadeh were not combinable with Extreme Networks. For example, at col. 3, line 20, Sistanizadeh suggests the preferability of switches performing layer 3 switching functions, contrary to the claimed invention. Claim 1 requires: "said first switch running only a layer 2 protocol."

Claims 1 and 10 should also be allowed because they require a wide-area fiber optic failover transition system. ESUG, as the Examiner concedes, is a network control software program discussed at that time only in the context of a server farm or local area network. The vast data flow of a fiber optic network were not contemplated by Extreme Networks. Nowhere does ESUG teach or suggest that any of its functionality can or should be applied to a fiber optic wide area network.

As set forth in the specification, prior to the invention as claimed, prior art service providers provided SONET services, and had not focused on Ethernet-types services in conjunction with optical fiber. Among other substantive differences, claims 1 and 10 are limited to wide-area fiber-optic networks. Nothing in ESUG suggests a fiber optic network. Indeed, Applicant disclosed ESUG as a potentially useful approach to use in conjunction with its claimed architecture. *See* Specification, pp. 16-17. The Examiner, for example, cites the following figure 10-7 of ESRP Groups, which are described as providing failover within a subnet, which is described as "the most typical application." Nowhere is disclosed a fiber optic network as described.

ESUG thus fails to teach or suggest the elements and limitations of claims 1 and 10. The claims, as amended, clarify this fundamental distinction from ESUG.

The Examiner further concedes that Extremeware does not disclose the elements: "wherein at least one of said ports flushes a layer 2 forwarding database and rebroadcasts for a new path."

Notwithstanding the absence of this teaching in Extremeware, the Examiner contends that it would have been obvious to have one of the ports flush a layer 2 forwarding database and rebroadcast for a new path. The Examiner directs Applicant's attention to Dynamic FDB discussed in Extremeware. However, the Dynamic FDB, by the Examiner's own admission, does not teach the flushing of a layer 2 forwarding database at all. Moreover, it does not teach the flushing of a layer 2 forwarding database "upon said configuration of said second switch to transition to said master mode," as claimed in claim 1. Accordingly, claim 1 and dependent claims 2-19 are allowable over the prior art of record.

As set forth in the specification, prior to the invention as claimed, prior art service providers provided SONET services, and had not focused on Ethernet-types services in conjunction with optical fiber. Among other substantive differences, claims 1 and 10 are limited to wide-area fiber-optic networks. Nothing in ESUG suggests a fiber optic network. Indeed, Applicant disclosed ESUG as a potentially useful approach to use in conjunction with its claimed architecture. *See* Specification, pp. 16-17. The Examiner, for example, cites the following figure 10-7 of ESRP Groups, which are described as providing failover within a subnet, which is

described as "the most typical application." Nowhere is disclosed a fiber optic network as described.

ESUG thus fails to teach or suggest the elements and limitations of claims 1 and 10. The claims, as amended, clarify this fundamental distinction from ESUG.

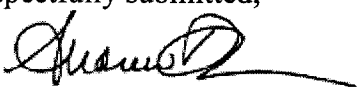
Specifically with respect to claim 18, the Examiner has identified no reference that teaches or suggests a "detecting step comprises using port track." Accordingly, claim 18 is in condition for allowance.

IV. Conclusion

In view of the amendments and remarks set forth above, Applicant submits that the pending application is in condition for allowance, which Applicant respectfully requests. Should the Examiner have any continuing issues with the patentability of the pending claims, he is invited to contact the undersigned to arrange an interview on the matters raised herein.

Dated: April 18, 2008

Respectfully submitted,

By 

Andrew G. DiNovo
Registration No.: 40,115
DINOVO PRICE ELLWANGER LLP
P.O. Box 201690
Austin, Texas 78720-1690
(512) 681-4060
Attorneys For Applicant